IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06/01/2006

CORAM

THE HON'BLE MR.JUSTICE P.SATHASIVAM
and
THE HON'BLE MRS.JUSTICE CHITRA VENKATARAMAN

W.P.No.16193 of 2003 and W.P.No.16194 of 2003

W.P.No.16193 of 2003

1. UOI rep. by the Chairman
Railway Board, New Delhi.

2. The Chief Personnel Officer
Southern Railway
Chennai-600 003.

3. The Workshop Personnel Officer
The Central Workshop
Southern Railway
Ponmalai
Thiruchirapalli-620 004. .. Petitioner

-Vs-

1. The Registrar
Central Administrative Tribunal
Chennai-600 104.

2. D.Selvaraj
3. A.Xavier
4. R.Ramasamy
5. K.Rengan
6. V.Balasubramanian
7. N.Mohandoss
8. E.M.S.Saseendran
9. K.Chandrasekaran
10. A.Jayakumar
11. K.C.Ravindran
12. A.Moncy Thomas
13. R.Narayanan
14. M.Ramasamy
15. P.Dhanabalan
16. G.Dhanapal
17. S.Kandasamy
18. V.Balasubramaniam

19. G.Gangadharan Rao
20. N.Ganesan
21. M.Rex Hubert Arockiyasamy
22. S.Alphonse Rayan .. Respondents

W.P.No.16194 of 2003:

1. UOI rep. by the Chairman
Railway Board, New Delhi.

2. The Chief Personnel Officer
Southern Railway
Chennai-600 003. .. Petitioners

versus

1. The Deputy Registrar
Central Administrative Tribunal
Chennai.

2. T.Chandrasekaran .. Respondents

PRAYER: W.P.No.16193 of 2003 is filed under Article 226 of the Constitution of India for the issue of a writ of Certiorari calling for the records relating to the order passed in O.A.No.460 of 2002 dated 9.1 2.2002 by the first respondent and to quash the same.

W.P.No.16193 of 2003 is filed under Article 226 of the Constitution of India for the issue of a writ of Certiorari calling for the records relating to the order passed in O.A.No.302 of 2002 dated 9.12.2002 by the first respondent and to quash the same.

!For petitioners in both W.Ps. : Mr.R.Thiagarajan
Senior Advocate for
Mr.K.Elango

^For respondents-2 to 22 in
W.P.No.16193 of 2003/
2nd respondent in W.P.
No.16194 of 2003 : Mr.P.V.S.Giridhar
representing Mr.A.Rahul

:ORDER

CHITRA VENKATARAMAN,J.

W.P.Nos.16193 and 16194 of 2003 are filed by the respondent-Board challenging the orders of Central Administrative Tribunal in O.A.No.460 of 2002 and O.A.No.302 of 2002 dated 9.12.2002 respectively.

2. The applicant/respondent before this Court filed O.As. before the Central Administrative Tribunal praying for quashing of the orders dated 12.12.1998 and 12.2.2002, denying upper revision of their pay scale of 5000-8000 and consequently direct the respondents/writ petitioners herein to grant the pay scale of 5000-8000 with effect from 1.1 .1996 with consequential benefits including arrears of pay and allowances flowing therefrom.

3. The respondents in the writ petition/applicants before the Tribunal, originally entered the services in the respondent Department in the cadre of a Khalasi in the Loco Workshop, Southern Railway. They were promoted as Mistries on 11.6.1996 then carrying a pay scale of 1400-2300 and revised as 4500-7000. The hierarchical order of promotion from the stage of Khalasi is first to the post of Skilled Artizan-II, then to the post of Skilled Artizan and thereafter to the post of Mistry. It is stated in the petition before the Tribunal that Mistries in the Inspection Wing always enjoyed the pay scale higher than Skilled Artizans and Master Craftsmen, in view of their level of knowledge and experience apart from their role and responsibilities.

4. It is stated that Mistries are appointed from among Skilled Artizans depending upon the number of years of service. This nonselection post involve supervisory work on the Skilled Artizans. It is further stated that from the post of Skilled Grade I Artizan, there is a promotional avenue to the post of Master Craftsman. This promotional post is purely personal in nature. It is seen that the post of Master Craftsman was created primarily with a view to provide an avenue of promotion to such of the Artizan staff who had the required skill but without the requisite literary level to get into higher promotional post beyond Artizan Grade I.

5. It is the case of the petitioners herein that Mistry always enjoyed a higher pay scale than Skilled Artizan and Master Craftsman. The petitioners stated that both under the III and IV Pay Commission, Master Craftsman and Mistry enjoyed pay parity; that as per the V Pay Commission's recommendation, initially both Master Craftsmen and Mistries are to be granted equal pay scale of 4500-7000. To the surprise of the petitioners, by an order dated 12.12.1998, issued by the second respondent in the O.A. of the first writ petitioner, with effect from 1.1.1996, while the pay scale of Skilled Artizans and Master Craftsmen was enhanced, the petitioners were given no upward revision equal to that of Master Craftsmen; that only a nominal sum of Rs.100/- per month was granted as additional remuneration.

6. It is stated that the aggrieved Mistry made a representation dated 12.10.1999, seeking enhancement of the pay scale with effect from 1.1.1996. This resulted in the filing of O.S.No.250 of 2001, wherein the applicant in the O.A. prayed for a direction for grant of the pay scale of 5000-8000 on parity with Master Craftsmen with effect from 1.1.1996 with all consequential benefits. By an order dated 13.3.2 001, the Tribunal disposed of the said O.A., directing the Railway Board, the petitioner in the writ petition, to consider the representation dated 12.10.1999 within a period of four months. By an order dated 12.7.2001, the first writ petitioner rejected the

representation. This compelled the second respondent in the writ petition to once again approach the Tribunal in O.A.No.806 of 2001. By order dated 8.8.2001, the Tribunal directed the Railway Board to consider and dispose of the representation within six weeks of the order. By order dated 12.2.2002, the Railway Board, the first writ petitioner herein, passed an order rejecting the representation of the applicant before the Tribunal.

7. Aggrieved by this order, the second respondent/ applicant before the Tribunal, moved the Administrative Tribunal, challenging the order as arbitrary and unreasonable.

8. It was the case of the second respondent before the Tribunal that the failure of the Railway Administration to grant higher pay scale was guided by extraneous consideration and that when in the case of Skilled Artizans and Master Craftsmen there had been an upward revision, Mistries, who always enjoyed higher pay scale, ought to have been considered favourably, in the light of the V Pay Commission's recommendation.

9. By order dated 9th December 2002 in O.A.NO.302 OF 2002 and O.A. NO.460 of 2002, the Administrative Tribunal passed a common order accepting the case of the second respondent/applicant before the Tribunal. Placing reliance on the decision of the Hon'ble Supreme Court in AIR 2002 SC 2589 in the case of STATE OF HARYANA Vs. HARYANA CIVIL SECRETARIAT STAFF ASSOCIATION, the Tribunal quashed the orders and directed the writ petitioners to consider the case of the applicants in the O.As. for grant of pay scale of 5000-8000 with effect from 1.1.1996, entitling for consequential benefits. The Tribunal further directed that this exercise should be completed within four months of the date of receipt of the order.

10. Aggrieved by the said order of the Tribunal, the Union of India, represented by the Chairman, Railway Board, along with the Southern Railway, have preferred these writ petitions on the following contentions:
(i) Pay parity under the III Pay Commission was given primarily with a view to provide an avenue of promotion to the Artizan staff, Some of whom did not have the requisite literacy level to go beyond further promotional chances as Artizan Grade-I; that the promotion as Master Craftsman was a benefit personal to the incumbent and since the same did not confer any additional benefit of seniority and is an in situ placement, there was no violation in allotting a higher pay scale to the Master Craftsmen.
(ii) That the Master Craftsmen are supervised only by the Technical Supervisors like Chargeman 'B'/Junior Engineer Grade-II, and as such, the supervision by the Mistries of the work of the Master Craftsmen did not arise and hence, had no relevance in co mparing the pay scales. In the context of such difference existing, the writ petitioners prayed for quashing of the order of the Tribunal.

11. Mr.R.Thiagarajan, learned senior counsel appearing for the writ petitioners, reiterated the contentions and emphasized the fact that the Mistries

supervise the work of the Artizans, yet, Mistries and Artizan GradeI were

placed in the pay scale of 4500-7000 and that since Mistries who supervise the work of Artizan Grade-I, could not be allotted the same pay scale as that of Artizan Grade-I, the pay scale of Mistries were provided by allotting 4500-7000 + Special Pay of Rs.100/-. Drawing a distinction between the post of a Master Craftsman and a Mistry, learned counsel submitted that this was created with a view to provide an avenue of promotion to the staff who did not have the requisite literacy level to find promotion to higher Grades. Since the benefit of promotion as a Master Craftsman was personal and the pay scale of Master Craftsman was superior to that of Artizan Grade-I, even under the III Pay Commission, the difference existed between the Master Craftsmen and Mistries.

12. Mr.P.V.S.Giridhar, learned counsel for the successful applicants before the Tribunal, supported the order of the Tribunal.

13. It is seen that by an order in W.P.M.P.No.2214 of 2003 in W.P. No.16194 of 2003, by order dated 21st January 2004, this Court recorded the fact that the writ petitioners had granted the second respondent the pay revision and that the only question which needs to be decided is as to whether the second respondent/applicant before the Tribunal would be entitled to pay scale revision from an earlier date, as ordered by the Tribunal. Hence, the issue that has to be decided herein is the entitlement of the pay revision for the period on and from 1 .1.1996 till the date up to which the revision was not granted.

14. On a consideration of the submissions made by both sides, we are not inclined to accept the stand taken by the writ petitioners. Given the fact that Mistries form the feeder cadre for further promotion to the Grade of Junior Engineer, the Tribunal in its order, had clearly stated that the pay scale of Master Craftsmen was fixed equivalent to that of Mistries. Further, Mistries have definite role of supervising the work of Skilled Artizans. The Tribunal has also recorded a fact that Mistries are appointed by way of promotion, whereas, the appointment as a Master Craftsman by way of upgrading of 10% of the Artizan posts is purely personal to each employee, considering the chances of further promotion being very remote, in the wake of their literacy level.

15. It may be seen even from the affidavit of the petitioners that the post of Mistry definitely carried greater responsibilities than that of the Artizan Grade-I; that the post of Master Craftsman is not a promotional post like Mistries; that in the sense that placement in the post of Master Craftsman is personal to the incumbent and in situ in its nature. In the said background of post of Mistry carrying definite responsibilities, there is no reason to place Mistries who are admittedly in a higher post, on par with Artizan Grade-I and well below Master Craftsmen, who are part of Artizan Grade-I post in the matter of fixing the pay scale.

16. Considering the total absence of rationality in the fixing of upper pay scale to the post of Mistry, and in the absence of any valid reason adduced, we have no hesitation in rejecting the contention of the writ petitioners. In the circumstances, we uphold the order of the Tamil Nadu

Administrative Tribunal and dismiss the writ petition filed by the Railway Board. The reliance placed by the Tribunal in the decision of the Apex Court in AIR 2002 SC 2589 (STATE OF HARYANA Vs. HARYANA CIVIL SECRETARIAT STAFF ASSOCIATION) in giving direction to the writ petitioners for grant of pay scale of 5000-8000 on parity with the Master Craftsmen, is justified and correct in law. No costs.

Index: Yes
Internet: Yes

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Railway Board,
representing the
Union of India
New Delhi.

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